

CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL

COMMITTEE:	Standards Committee
DATE:	17 September 2019
REPORT TITLE:	Report on the North Wales Standards Committees Forum on 24th June 2019
PURPOSE OF THE REPORT:	To update Members of the Standards Committee
REPORT BY:	Michael Wilson Chair of the Standards Committee
LINK OFFICER:	Lynn Ball Head of Function (Council Business) / Monitoring Officer lbxcs@anglesey.gov.uk Tel: 01248 752586

1. BACKGROUND

- 1.1 The North Wales Standards Committees Forum is a forum made up of representatives from the Standards Committees in the North Wales local authorities and the North Wales Fire and Rescue Authority. Powys and Ceredigion are also new members on the Forum.
- 1.2 The last meeting of the Forum was held on 24th June 2019 and hosted by Flintshire County Council.

2. MEETING OF THE FORUM ON 24TH JUNE 2019

- 2.1 In accordance with the Forum's protocol, the Chair and Vice-Chair of the Isle of Anglesey County Council's Standards Committee were invited to attend the Forum meeting on 24th June.
- 2.2 **Enclosure 1** is a copy of the Agenda.
- 2.3 Presentations were provided in relation to items 4, 5 and 7 on the Agenda. The presentation on item 4 appears at **Enclosure 2**, the presentation on item 5 appears at **Enclosure 3** and the presentation on item 7 appears at **Enclosure 4**.
- 2.4 I, together with Islwyn Jones as the Vice-Chair of the Standards Committee will give a verbal update at the Standards Committee meeting on 17th September 2019 on the matters discussed at the Forum meeting.

- 2.5 A copy of the draft Minutes are included at **Enclosure 5** which are yet to be approved by the Forum.

3. JOINT STANDARDS COMMITTEE

- 3.1 Members will note that the establishment of a Joint Standards Committee was considered as item 7 on the Agenda and the presentation which appears at **Enclosure 4** was made by the Monitoring Officer for Flintshire County Council.
- 3.2 I understand that whilst the principle of a joint standards committee is accepted, it is a proposal that answers problems which the IOACC does not recognise; such as recruitment difficulties, member availability for urgent matters / meetings at short notice etc. The matter has been discussed with the Chief Executive and at present it is suggested that there is no desire to explore this possibility further as there would currently be no benefit to IOACC. I also understand that the Chief Executive will be discussing this matter further with Group Leaders.
- 3.3 IOACC has recently undertaken a recruitment process for four new independent members and I understand the Appointments Panel was impressed with the calibre and number of applicants. Additionally, there are no problems in relation to forming Panels at short or urgent notice for matters such as applications for dispensations. Early, local resolution of disputes is something which is being used more frequently, and indeed recognised as a priority by the Public Services Ombudsman for Wales. It is therefore questionable how effective local resolution may be if it were regional?.

4. REPORT BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE FOR ENGLAND

- 4.1 I understand that it is intended that a further report be brought to the Standards Committee by way of training to its members in relation to the findings of the Committee on Standards in Public Life, which relates to England, but where there are lessons to be learnt in Wales too. This will be presented to the Standards Committee at the next formal meeting in March 2020, particularly as five of the nine members of the Committee will be newly appointed (four independent members and one County Councillor representative).

5. RECOMMENDATION

- 5.1 For members of the Standards Committee to note the contents of the Agenda and the presentations made at the Forum meeting on 24th June 2019.
- 5.2 To note the verbal update provided by me and the Vice-Chair of the Standards Committee.
- 5.3 To raise any matters to be considered at the next meeting of the Forum.

Complete Agenda



NORTH WALES STANDARDS COMMITTEES FORUM

Monday, 24th June, 2018 at 11.00 am

Delyn Committee Room, Council Offices, Mold, Flintshire, CH7 6NB

To the Chair, Vice-Chair and Monitoring Officer of:-

Isle of Anglesey Standards Committee

Ceredigion Standards Committee

Conwy Standards Committee

Denbighshire Standards Committee

Flintshire Standards Committee

Gwynedd Standards Committee

Powys Standards Committee

Wrexham Standards Committee

North Wales Fire and Rescue Authority Standards Committee

AGENDA

1. **APPOINTMENT OF CHAIR FOR THE MEETING**

To appoint a Chair for the meeting.

(N.B. The forum has previously agreed that its meetings will be chaired by the hosting authority.)

2. **APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

3. **MINUTES OF THE MEETING HELD ON 29th JUNE, 2018**

The Chair shall propose that the minutes of the previous meeting of the Forum held on 29th June, 2018 be signed as a true record (attached).

4. **PRESENTATION BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES – NICK BENNETT**

The PSOW will speak on the following theme and there will be the opportunity for questions –

Actions beyond the Code to address poor behaviour.

Common issues and behaviours which lead to low level complaints which do not pass the 2 stage test. Advice from the Ombudsman on how to avoid such matters or deal with them when they arise.

5. **LESSONS FROM THE COMMITTEE ON STANDARDS IN PUBLIC LIFE'S REVIEW OF THE CODE OF CONDUCT IN ENGLAND**

In light of its findings, are there any changes we need to be recommending in Wales?

The report of the Committee can be found here –

<https://www.gov.uk/government/collections/local-government-ethical-standards>

BREAK FOR LUNCH

6. **NAME OF THE FORUM**

To consider changing the name in light of the expanded membership.

7. **JOINT STANDARD COMMITTEES**

Presentation and discussion item on introducing one or more Joint Standards Committees across the region.

8. **WELSH AUDIT OFFICE REPORTS HAVE RECENTLY BEEN PUBLISHED IN RELATION TO TWO COMMUNITY COUNCILS WITHIN THE ISLE OF ANGLESEY**

Albeit a vast majority of the matters raised in the reports are outside the remit of the Standards Committee, there are some code of conduct / governance matters, which are of concern to the Standards Committee. The reports are dated 30 January 2019 but relate to the Audit periods 2013-2014 and 2014-2015. This seems a lengthy delay between review and publication of findings, particularly where there are issues of concern. Is this a familiar story? What are the experience of other authorities?

9. **ANY OTHER BUSINESS**

To consider any other business.

10. **DATE AND LOCATION OF NEXT MEETING**

To determine the date and location of the next meeting.

MINUTES OF THE NORTH WALES STANDARDS COMMITTEES FORUM MEETING HELD IN HYWEL DDA CHAMBER, COUNCIL OFFICES, CAERNARFON ON FRIDAY, 29 JUNE, 2018

PRESENT

Gwynedd Council - Einir Young (Chair) and Margaret E.Jones (Vice-chair),
Wrexham County Borough Council - Michael Pugh (Chair)
Conwy County Borough Council - Ian Kyffin (Independent Member)
Flintshire Council – Phillipa Earlam (Independent Member)
Denbighshire Council - Ian Trigger (Chair) and Julia Hughes (Vice-chair)
Isle of Anglesey County Council - Mike Wilson (Chair) and Islwyn Jones (Vice-chair)
Snowdonia National Park Authority - Sharon Warnes (Chair)

ALSO PRESENT

Gwynedd Council - Iwan Evans (Monitoring Officer), Carwyn Meredydd (Communications
Officer - Press / Promoting Services) and Eirian Roberts (Member Support Officer)
Ceredigion County Council - Elin Prysor (Monitoring Officer)
Isle of Anglesey County Council - Mared Yaxley (Solicitor)

1. ELECTION OF CHAIR FOR THE MEETING

Einir Young, Chair of Gwynedd Council's Standards Committee was elected chair of the meeting.

2. APOLOGIES

Apologies were received from:-

Ceredigion County Council - Hywel Jones (Chair) and Caroline White (vice-chair)
Wrexham County Borough Council - Neil Benson (Vice-chair) and Sioned Davies
(Monitoring Officer)
Snowdonia National Park Authority - Iwan Jones (Monitoring Officer)

3. MINUTES OF THE MEETING HELD ON 24 NOVEMBER, 2017

Submitted - the minutes of the North Wales Standards Committees Forum meeting held on 24, November, 2017.

RESOLVED to accept the minutes of the meeting held on 24 November, 2017 as an accurate record.

Matter arising from the minutes

Item 6 - Procedures for dealing with allegations against members

Referring to the decision to ask Anglesey's Monitoring Officer to draft a letter for the Ombudsman and to circulate it among Monitoring Officers in all authorities, Anglesey's Solicitor noted that she had been given to understand that a letter had been drafted and

sent to Wrexham County Borough Council, but before anything further had taken place, the Ombudsman had drafted a guide responding to many questions that had been raised at the forum.

It was agreed to provide copies of the guidelines for members who were present and to discuss the matter further under item 6 - Any Other Business.

4. PRACTICES / PROTOCOLS ON THE USE OF SOCIAL MEDIA AND THE REVIEW OF WELSH LOCAL GOVERNMENT ASSOCIATION GUIDANCE

Gwynedd's Monitoring Officer explained the background to this item and noted:-

- That the Welsh Local Government Association had just released a pre-consultation draft of new guidelines for members on social media.
- The training on social media arranged for Gwynedd Council members dealt with the nature of those media, as well as the behavioural aspect.
- The aim in submitting this item was to encourage a discussion regarding how politicians were trained to use social media and how it changed their world in terms of communication etc., and the risks that derived from it.

A general presentation on the social media field was given by Gwynedd Council's Communications Officer - Press / Promoting Services. He also elaborated on the type of training and advice that was provided to Council members. He noted that social media were a convenient and powerful method of promoting services, to hold a two-way conversation and to ensure that councillors were accountable and open, but there were also risks for councillors to consider when setting up accounts and publishing information.

The Chair thanked the officer for his comprehensive presentation on such a timely topic.

A discussion followed on the practices / protocols on the use of social media that were being implemented by different authorities.

Gwynedd's Monitoring Officer noted:-

- That Gwynedd Council members were advised to differentiate between their private lives and their public lives on-line by setting up a personal account and a member account separately as combining both could lead to risks as the code was relevant to members when acting as councillors or when professing to be members.
- Although Article 10, which referred to the right to make political statements without restraint, meant that it was now possible to make quite critical observations without breaching the code, that many of the discussions on social media could still lead to complaints.
- As different people's involvement with social media varied, it was difficult to manage expectations and that this raised genuinely difficult questions in terms of how and when one should intervene and what would bring the role of councillor into disrepute. In this context, an example of a Facebook-related complaint was distributed and members were asked for their opinions.

The following points were noted during the discussion:-

- There was a need for the person who wrote the message to consider, not what he/she thought of the message, but how it could be interpreted by someone else.

- It was a very fine line and that the way a message was received by people depended on the audience.

Contributions to the review of the Welsh Local Government Association guidance were invited.

Gwynedd's Monitoring Officer drew attention to some matters in the document that could be of interest to members, namely:-

- Page 19 - the concept of a 'friend' on Facebook. It was possible to have hundreds of 'friends' on Facebook, but the suggestion that there was a close personal connection between a person on Facebook and his/her followers was extreme and likely to create many problems in terms of interpretation.
- Page 21 - the reference to the difference between the role as member and as a private individual. A member could bring his/her post as councillor into disrepute in any capacity, but differentiating accounts was a way of ensuring the greatest possible control over the relationship.
- Page 22 - making a decision in advance. A matter raised from Planning Committees where e.g. a committee member supported a campaign to refuse planning permission and had to step back from the committee and was at risk of breaching the code.

He noted that there would be an opportunity for the Standards Committees of all authorities to discuss the new guidelines during the full consultation.

A question was asked regarding the relevance of the General Data Protection Regulation (GDPR) to elected members and their rights in terms of uploading people's photographs on private and public social media accounts. With the exception of Cabinet Members, when undertaking the formal role of the Executive, Gwynedd's Monitoring Officer explained that councillors, as post holders, were responsible for their own data as elected members. In terms of uploading photographs of people, it was unlikely that the Act would have any bearing on any image that was freely obtainable, but a member would have to be more cautious if he/she used a photograph that he/she could not have accessed were it not for his/her role as councillor. Should the case be serious enough e.g. in terms of propriety, or something that suggested that the member was bringing the post into disrepute, he also noted that a member could breach the code by misusing a photograph on-line. However, should a member regularly be accused of breaching data protection regulations, the behaviour, rather than the breach itself, is what would bring the role into disrepute.

Gwynedd's Communications Officer - Press / Promoting Services added that care needed to be taken also in terms of the time period when a photograph was used and that the Council deleted photos after five years as it could not insist that it had the right to use it beyond that time.

It was noted that a situation where a councillor took a photograph in a location where children happened to be present could be challenging as it would not have been practical for the member to ask everyone present for permission to use the photograph. It was suggested that it could have been better for the councillor not to have taken the photograph in the first place.

It was noted that there would be much discussion on this field over the coming months and it was agreed that this could be a topic for the forum to examine in future.

RESOLVED to ask Standards Committees of the different authorities to discuss the pre-consultation draft and full consultation on the new guidelines on social media and respond directly to the Welsh Local Government Association.

5. QUESTIONS RAISED BY THE CHAIR OF THE ISLE OF ANGLESEY COUNTY COUNCIL'S STANDARDS COMMITTEE

The following questions raised by the Chair of the Isle of Anglesey County Council's Standards Committee were discussed:

- (a) In light of Welsh Government's intention to merge local authorities, how does the Forum envisage the Standards Committees working in future, especially in relation to Town and Community Councils? For example, should Anglesey and Gwynedd merge, as was proposed, there would be over 100 Town and Community Councils for one Standards Committee - was there a need to reduce the number of Community and Town Councils?

Gwynedd's Monitoring Officer referred to the review of Community and Town Councils that was currently taking place and noted:-

- That a question arose regarding the need for Community and Town Councils to have a code of conduct that was as full and detailed as that of County Councils, given the matter of risks and the extent of decisions they made.
- The highest percentage of enquiries and problems regarding the behaviour of members arose from Community and Town Councils.

The Chair of Anglesey's Standards Committee noted:-

- No future collaboration between Councils should lead to fewer Standards Committees, given the number of community and town councils in their areas.
- An increasing number of minor complaints coming from Town Councils in particular, fell below the Ombudsman's threshold in relation to public interest, and therefore, had to be resolved locally.

It was asked whether or not Anglesey's experiences were being reflected in other Councils. In response, the following observations were noted:-

- Denbighshire Council had received fewer complaints on every level over the past eight years and there were many reasons for this, including the very effective training which was arranged for members and clerks and the fact that people were now beginning to realise that the Ombudsman did not have an infinite amount of resources to investigate complaints.
- The local resolution system had made a difference and had substantially brought the number of cases down across Wales.
- As training was not mandatory, the people who did not require it were most likely to attend the sessions.

Gwynedd's Monitoring Officer further noted:-

- There was a need to raise awareness across all Community and Town Councils regarding the system and the existence and function of the Standards Committee and the Monitoring Officer.

- The Ombudsman's address and the public interest test suggested that irrelevant parts could be omitted from the code without losing much in terms of propriety thus allowing the community and town councils to focus on its relevant parts.

- (b) The recent process of selecting representatives from Town and Community Councils to sit on the Isle of Anglesey County Council's Standards Committee had appeared to be lengthy and burdensome. How do other Standards Committees undertake this process?

Anglesey's Solicitor outlined the process that had been followed in Anglesey, and the representatives of different authorities elaborated on their own processes of appointing representatives from Town and Community Councils and independent members on their Standards Committees.

It was suggested that authorities seeking a new independent member could ask neighbouring authorities whether or not they also required a new member so that the person could sit on the Standards Committee of both authorities.

Everyone was thanked for sharing their experiences.

- (c) Isle of Anglesey County Council had recently adopted an amended Local Resolution Protocol which was based on a voluntary process of mediation between Councillors and Standards Committee members. If both sides agreed to the process, Councillors had to seek their own resolutions and a representative of the Standards Committee would be present as a mediator only. In order to undertake the process effectively, arrangements were in place for members of Standards Committees to receive mediation training. Had the other Standards Committees arranged such training? Were there good practices / learning points to share among members of the Forum?

Representatives of the different authorities elaborated on their arrangements and experiences. It became apparent that the situation varied from authority to authority, with only the Monitoring Officer undertaking the process in some Councils, while others included a member(s) of the Standards Committee and / or Leaders of the Political Groups.

During the discussion, the following observations were made:-

- Should the mediation fail and the matter referred to the Standards Committee, any member of the Standards Committee who had been part of the mediation process would have to stand down from the committee to avoid being seen as partisan.
- The Monitoring Officer and Group Leaders should be responsible for the mediation process.
- A member of the Standards Committee acting as mediator could feel that he/she has been unduly burdened.
- If a matter, in which a local resolution had been proposed, were referred to the Ombudsman, the Ombudsman would be aware that the proposal had been made and he/she could take the fact that the process had failed into consideration.
- A mediator should not take sides, and only attempt to get both sides to see the other's viewpoints.

- (ch) Isle of Anglesey County Council would be willing to arrange for David Richards, WG Director, to attend a meeting of this Forum in future to give a presentation on general governance matters. Was this something that would assist Forum members?

Anglesey's Solicitor noted that the Authority's Monitoring Officer had attended a course where David Richards had held a session on governance in general and that he had suggested that he could give a presentation on this, or another subject, to the forum.

RESOLVED to ask Isle of Anglesey County Council's Monitoring Officer to send a copy of David Richards' presentation on governance in general to every Monitoring Officer so that they can submit it to their Standards Committees to discuss and decide whether it would be possible to tailor it to this forum.

6. ANY OTHER BUSINESS

- (a) Agenda of the Next Meeting

Gwynedd's Monitoring Officer noted that it would be beneficial for whoever was arranging the next forum meeting to get an idea of the type of items everyone wished to include in the agenda.

RESOLVED to ask everyone to consult with their Standards Committees regarding potential items for the next meeting and feed back any suggestions, through the Monitoring Officer, to the next host authority.

- (b) Standards Conference 2018

Ceredigion's Monitoring Officer outlined the arrangements for the Standards Conference 2018, which would be held in Aberystwyth on 14 September. She presented an outline of the contents of the day's agenda and noted that any ideas or assistance would be welcomed by anyone.

- (c) Procedures to deal with allegations against members

The Ombudsman's draft guideline 'Code of Conduct - Interim Powers' was discussed.

Gwynedd's Monitoring Officer noted that the viewpoint on this at the Wales Monitoring Officers' meeting was that no one wanted to see a ruling in suspension being delayed as it would put more pressure on time.

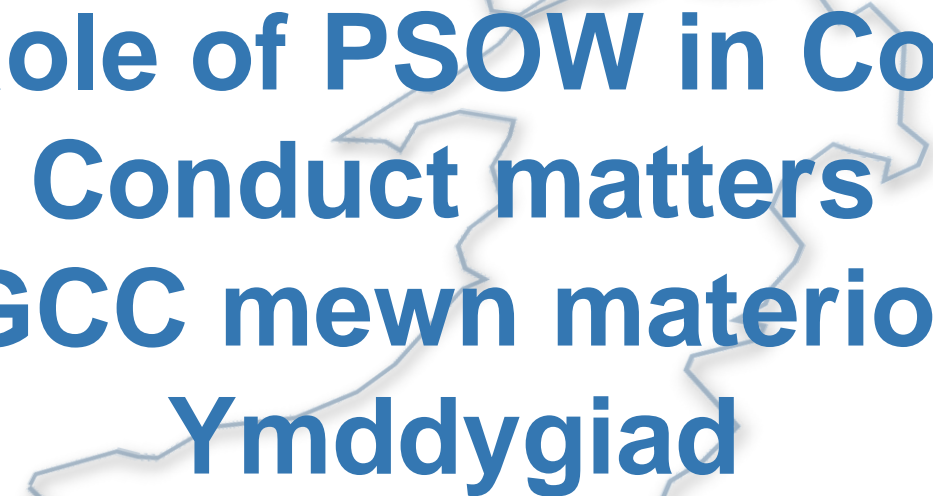
The Vice-chair of Anglesey's Standards Committee explained that they had originally brought this matter before the forum as they had not been persuaded that a process existed should an accusation be made against a county councillor. Accordingly, the last forum had resolved that Anglesey would draft a letter to the Ombudsman to be circulated among the Monitoring Officers of every authority. The letter had been sent to Wrexham County Borough Council, but before it had been forwarded to the Ombudsman, a similar matter had been discussed at the Monitoring Officers' meeting in Llandrindod, where an officer from the Ombudsman's office was present who had agreed to return the matter to the Ombudsman. The draft guideline did not answer every question in the letter, but it was believed that

this was the best answer the forum would be likely to receive from the Ombudsman, especially considering how much time had passed since the letter had been drafted.

7. DATE AND LOCATION OF NEXT MEETING

It was noted that information regarding the date and location of the next meeting would be circulated.

The meeting commenced at 10.00am and concluded at 11.55am.



The Role of PSOW in Code of Conduct matters

Rôl OGCC mewn materion Cod Ymddygiad

Nick Bennett

Public Services Ombudsman for Wales

Ombwdsmon Gwasanaethau Cyhoeddus Cymru

Who is the Ombudsman?

Pwy yw'r Ombwdsmon?

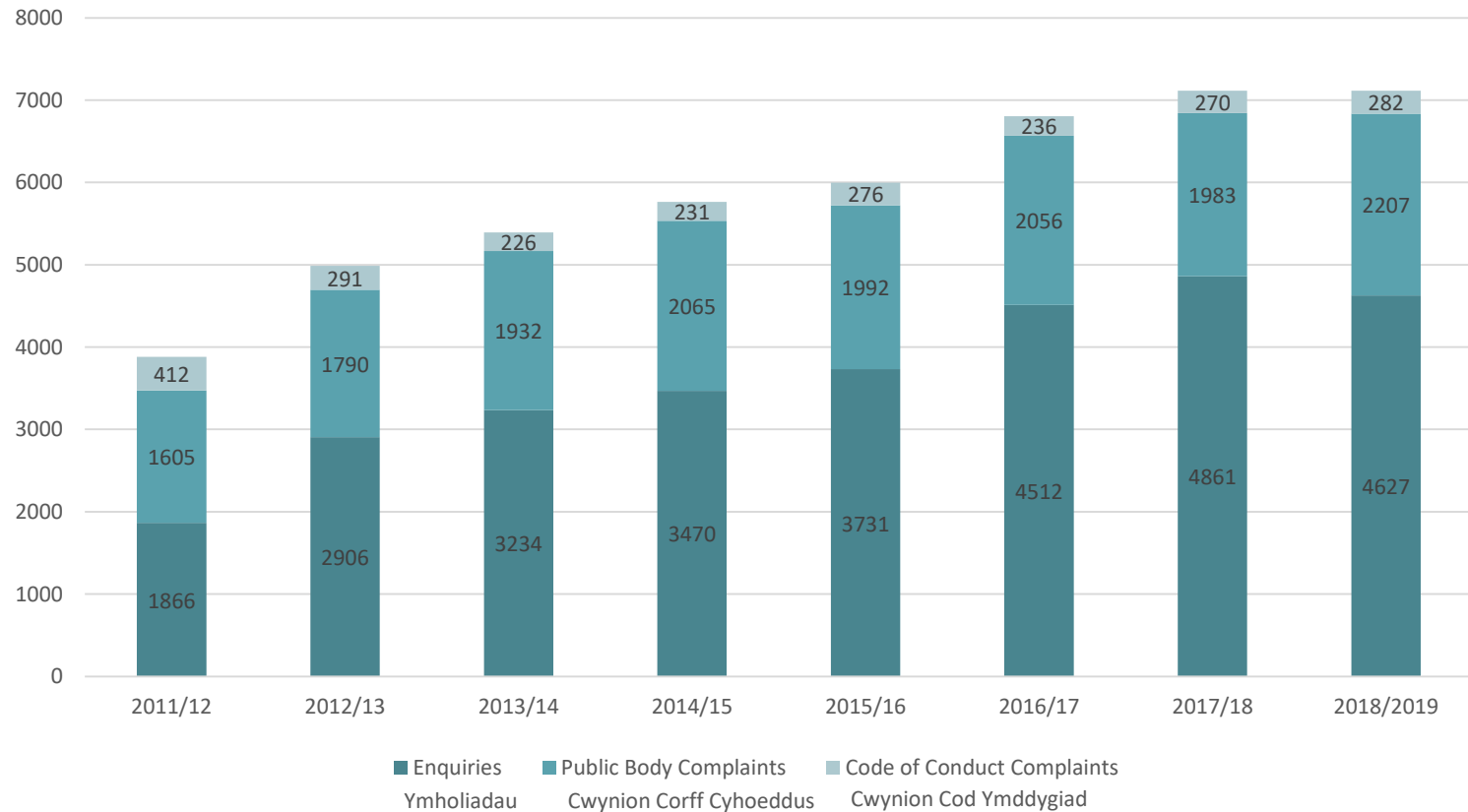


- Est 2006 - PSOW Act 2005
- Two specific roles:
 - Complaints about public services providers in Wales
 - Complaints that members of local authorities have broken the Code of Conduct
- New PSOW Act 2019
- Sefydlwyd 2006 – Deddf OGCC 2005
- Dwy rôl benodol:
 - Cwynion am ddarparwyr gwasanaethau cyhoeddus yng Nghymru
 - Cwynion bod aelodau o awdurdodau lleol wedi torri'r Cod Ymddygiad
 - Deddf OGCC newydd 2019

Trends – Enquiries & Complaints

Tueddiadau – Ymholiadau & Chwynion

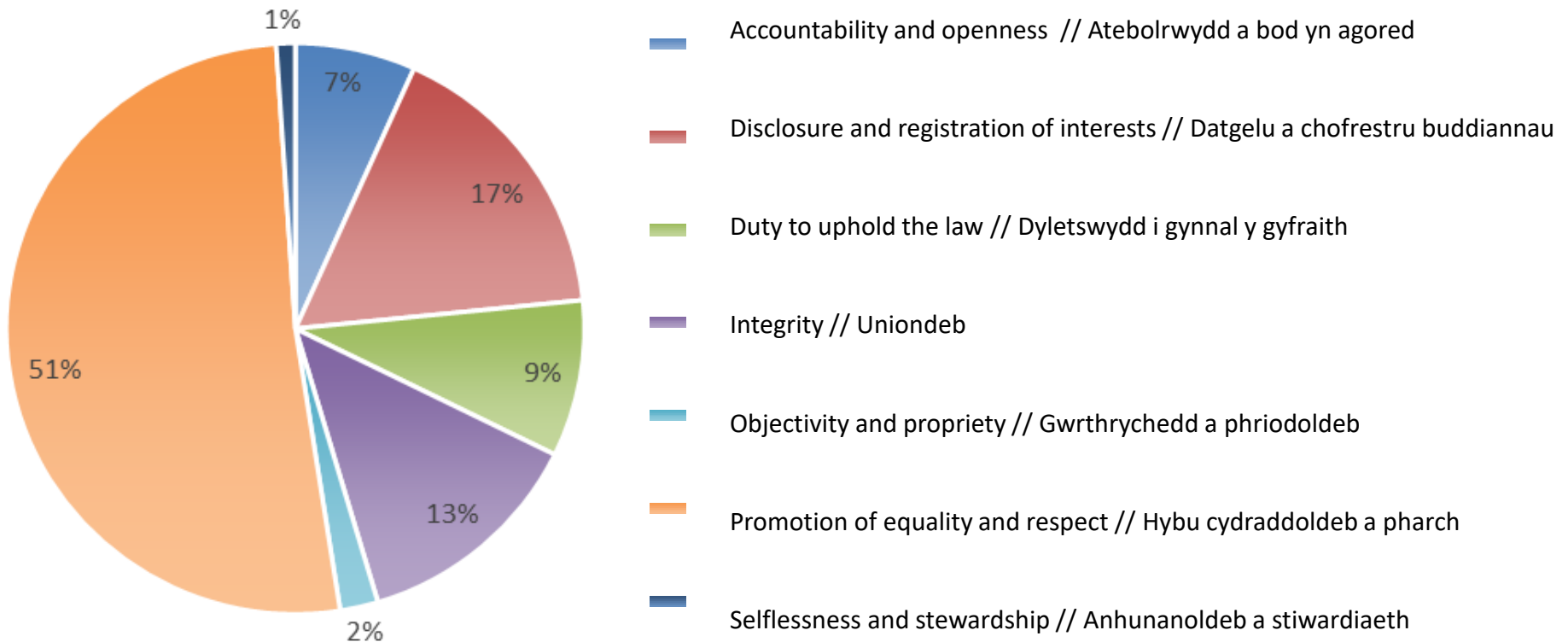
Total Enquiries and Complaints received by year
Cyfanswm yr Ymholiadau & Chwynion a dderbyniwyd yn ôl blwyddyn



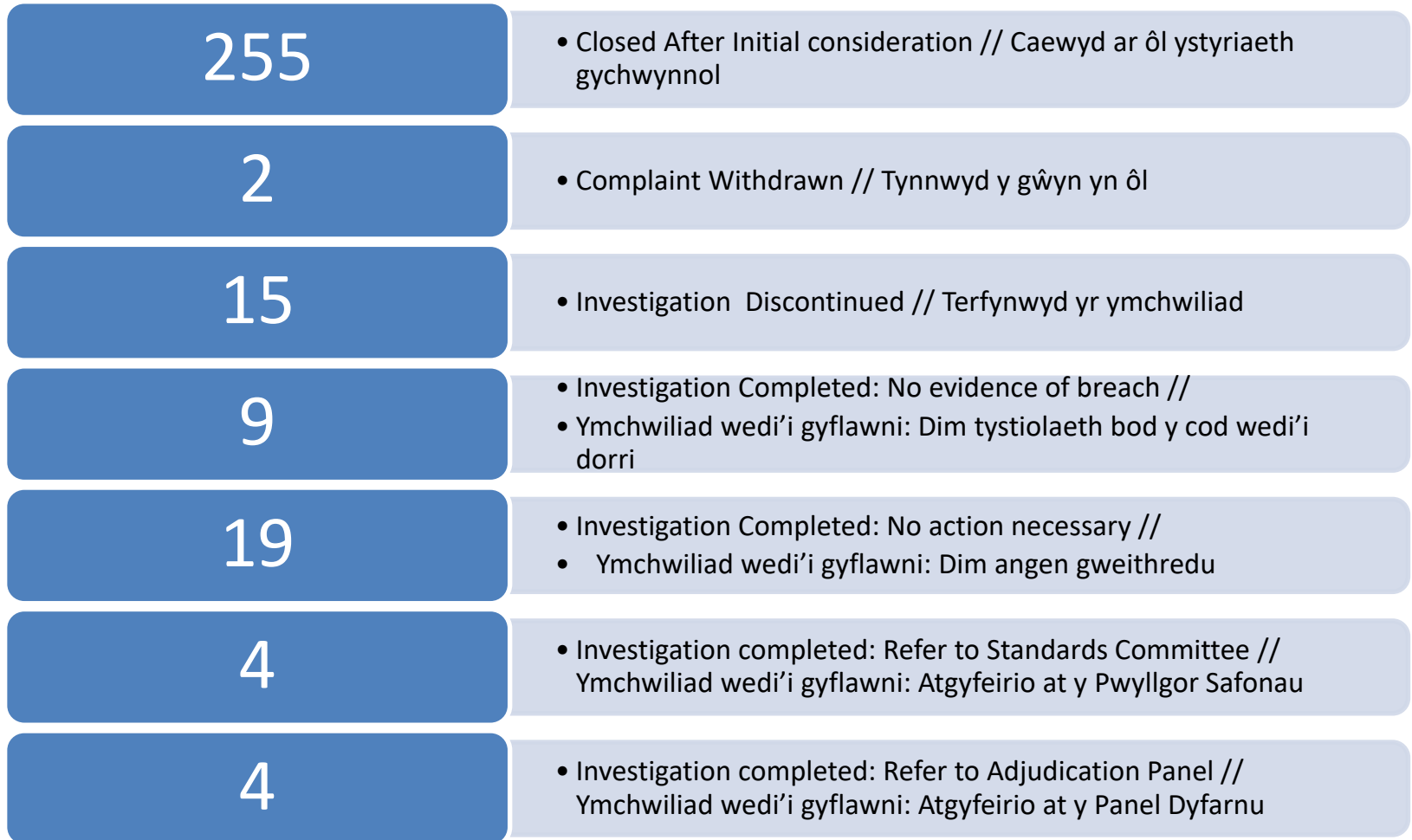
PSOW Annual Report 2018/19

Adroddiad Blynyddol OGCC 2018/19

Nature of Code of Conduct complaints received
Natur y cwynion Cod Ymddygiad a dderbyniwyd



Outcomes Canlyniadau



Types of complaints

Mathau o gwynion

190

- Town and Community Councils
Cynghorau Tref a Chymuned

91

- Local Authority
Awdurdod Lleol

1

- National Park
Parc Cenedlaethol

282

Two stage test

Prawf Dau gam

- Is there direct evidence that a breach actually took place?

If so:

- Is an investigation required in the public interest?



- A oes tystiolaeth uniongyrchol bod toriad gwirioneddol wedi digwydd?

Os felly:

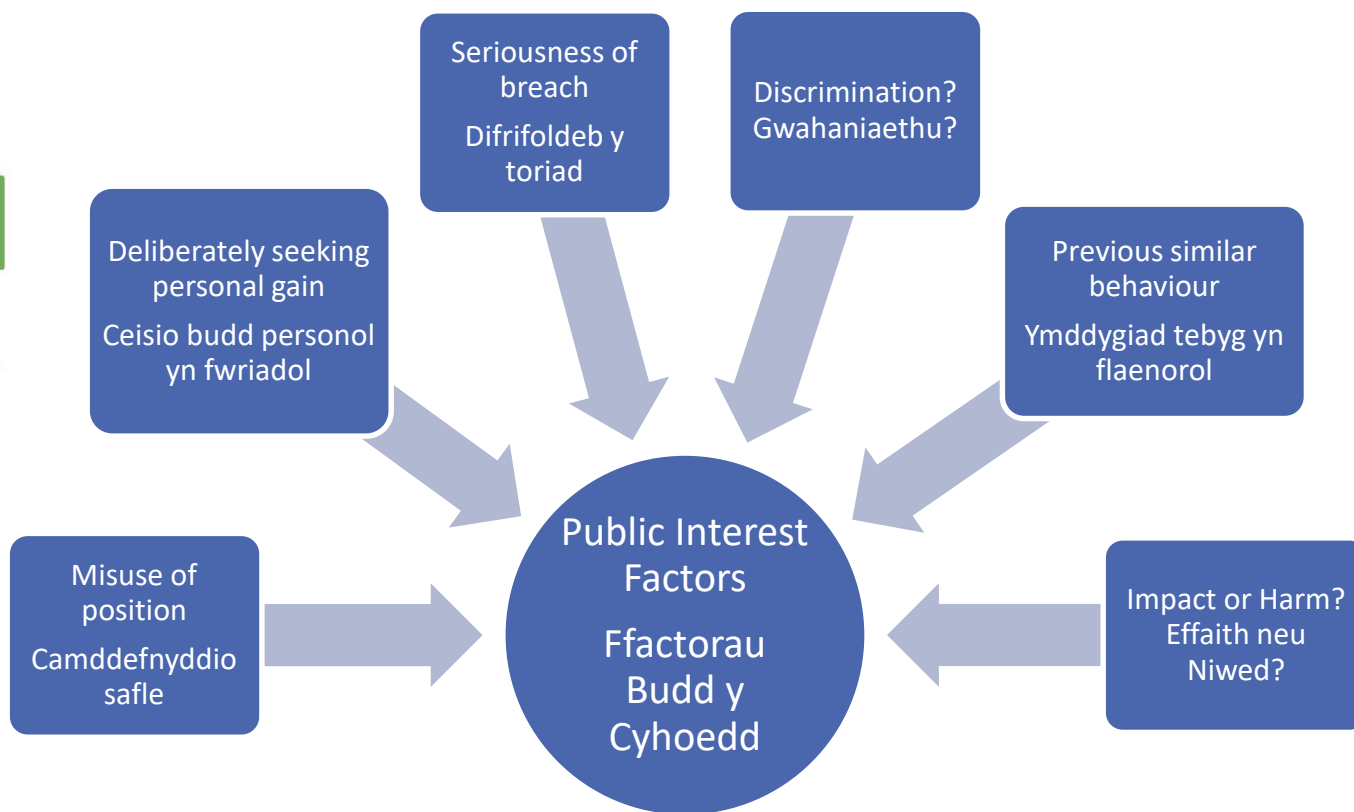
- A oes angen ymchwilio er budd y cyhoedd?

The Public Interest Test

Prawf Er Budd y Cyhoedd

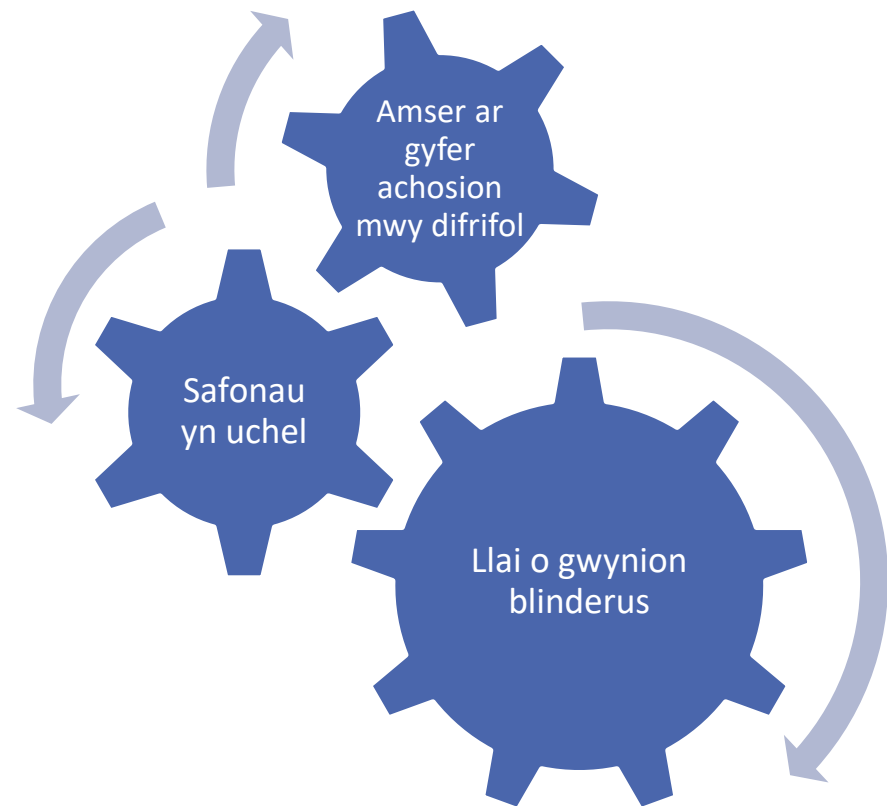
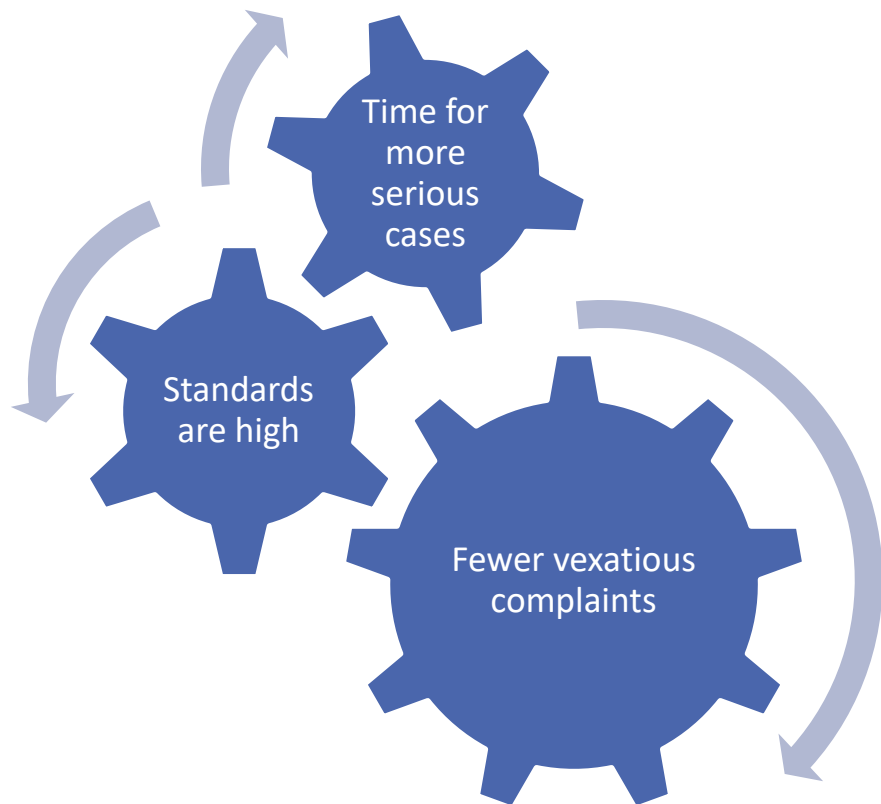
Is an investigation required in the public interest?

A oes angen ymchwilio er budd y cyhoedd?



Public Interest in practice

Budd y cyhoedd yn ymarferol



North Wales

Gogledd Cymru

- 22% of the population
- 32% of the complaints
- Only 17% of the total referrals across Wales
- 22% o'r boblogaeth
- 32% o'r cwynion
- Dim ond 17% o gyfanswm yr atgyfeiriadau ledled Cymru

Recent examples of vexatious complaints

Enghreiffitiau diweddar o gwynion blinderus

'Absurd' terrorism complaint made about councillors thrown out by Ombudsman
Cwyn 'hurt' am derfysgaeth a wnaed am gynghorwyr wedi'i wrthod gan Ombwdsmon

Examples of vexatious complaints

Enghreifftiau o gwynion blinderus

A Councillor left a one star rating on a local business without an explanation!
Gadawodd Gynghorydd radd un seren ar fusnes lleol heb roi esboniad!

A Councillor unfriended me on Facebook so I had to set up an account in my cat's name!
Cefais fy nileu oddi ar Facebook gan Gynghorydd felly roedd rhaid i mi greu cyfrif yn enw fy nghath!

Moving forward / Symud ymlaen

- Member v Member complaints (at a county level) are now largely dealt with by an internal dispute resolution procedure
- Extension of this to Town & Community Councils
- Serious cases referred to Standards Committees or Adjudication Panel for Wales
- Erbyn hyn, ymdrinnir â chwynion Aelod yn erbyn Aelod (ar lefel siriol) yn bennaf gan weithdrefn fewnol ar gyfer datrys anghydfodau
- Ymestyn hyn i Gynghorau Tref & Chymuned
- Achosion difrifol yn cael eu cyfeirio at Bwyllgor Safonau neu Banel Dyfarnu Cymru

Local leadership?

Arweinyddiaeth Leol?

- Nolan
- Distributed leadership
- Local Standards
Committees to guide local behaviours ?
- How can they support each other and exchange best practice?
- Is there appetite?
- Training and good practice –
Monmouthshire, Cardiff and Swansea
- Nolan
- Arweinyddiaeth ddosbarthedig
- Pwyllgorau Safonau Lleol i arwain ymddygiad lleol?
- Sut y gallant gefnogi ei gilydd a chyfnewid arfer gorau?
- A oes chwant?
- Hyfforddiant ac arfer da –
Sir Fynwy, Caerdydd ac Abertawe

Questions Cwestiynau

Committee on Standards in Public Life

- Established in 1994 by then PM John Major
- Responsible for promoting the Nolan Principles
- 3rd report in 1997 on local government
- Led to Standards Board for England, AP Wales etc
- Current report – a review of effectiveness of post 2011 changes in England



Terms of reference

1. examine structures, processes and practices of local gov in England (but compared Wales, Scotland and NI) for
 - a. maintaining code of conduct for councillors
 - b. investigating alleged breaches fairly and with due process
 - c. enforcing code and imposing sanctions for misconduct
 - d. declaring interests and managing conflicts of interests
 - e. whistleblowing
2. Assess whether existing structures etc are conducive to high standards of conduct
3. Make recommendations for improvement
4. Note evidence of intimidation and make recommendations to prevent

Review

- covers 10,000 town and parish councils in England
- 353 principal English authorities
- 319 submissions
- 2 roundtable seminars
- 30 stakeholder meetings
- 5 visits to LAs
- studied 20 codes
- studied reports of LA failure
- Report launch 30th Jan 2019



Key areas and issues considered

- Codes of conduct
- Interests
- Gifts and hospitality
- Investigations and safeguards
- Sanctions
- Town and parish councils
- Role of the Monitoring Officer
- Council governance, leadership and culture



Codes of conduct

Findings

- Inconsistent
- Don't cover bullying effectively
- Problems re scope – social media, claiming to or appearing to act as a councillor
- Nolan only codes inadequate
- Need to be reviewed
- Hard to find on LA websites

Codes of conduct

Recommendations / Best Practice

R1 LGA to create new model code, in consultation with SLCC, NALC etc

BP1 LA codes to define and prohibit bullying and harassment, with examples

R3 Councillors presumed to be acting in an official capacity in their public conduct

R4 Code to apply to when cllr claims, or appears to be acting as such

BP2 Failure to co-operate with investigation to be breach of code

BP3 LAs to review code annually

BP4 Code readily accessible in prominent position on LA website

Interests

Findings

- DPIs too narrow, unclear and criminalisation is disproportionate
- Registers disclose home addresses exposing cllrs to intimidation
- List of people whose interests need to be registered is too narrow
- But current list of pecuniary interests ok
- Need to include non-pecuniary interests in codes
- Unsatisfactory arrangements on registers of gifts and hospitality
- Requirements to declare DPIs and withdraw are too narrow

Interests

Recommendations / Best Practice

R18 abolish DPI criminal offences

R2 amend DPI regs so that cllr home address not registrable

R5 amend DPI regs to include unpaid directorships, trusteeships, charity / public body roles and lobbying organisations


R6 code to require registration of gifts / hospitality over £50 or over £100 pa from a single source

BP5 LAs to update registers of gifts & hospitality quarterly and make accessible

R7 abolish s31 Localism Act, code to require cllr to leave room if member of public would reasonably regard their interest as so significant that likely to prejudice their discussion or decision making

Investigations and safeguards

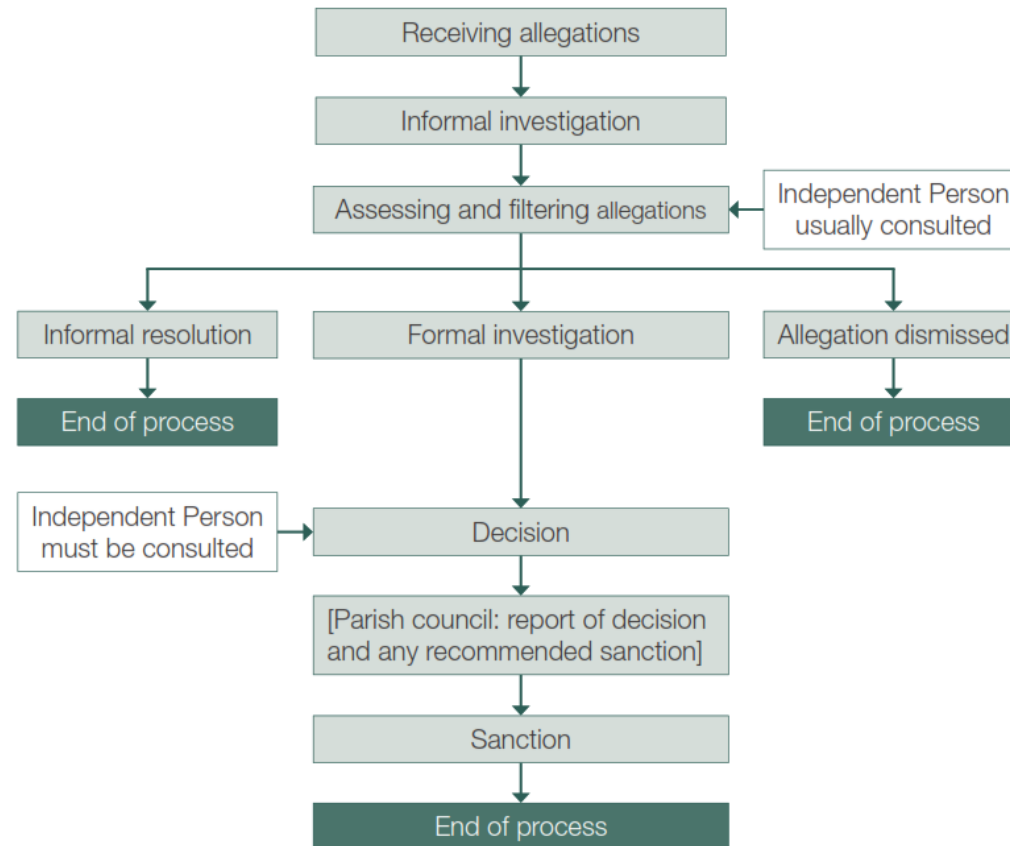
Findings

-  public interest test for filtering complaints
- No role specification, term, formal powers or legal protection for IPs
- IP views not public
- Many LAs not transparent on numbers of complaints and details of decisions
- Standards Committees should have voting independent and parish members
- No current right of appeal after hearings

Investigations and safeguards

Findings

The current investigation process



Investigations and safeguards

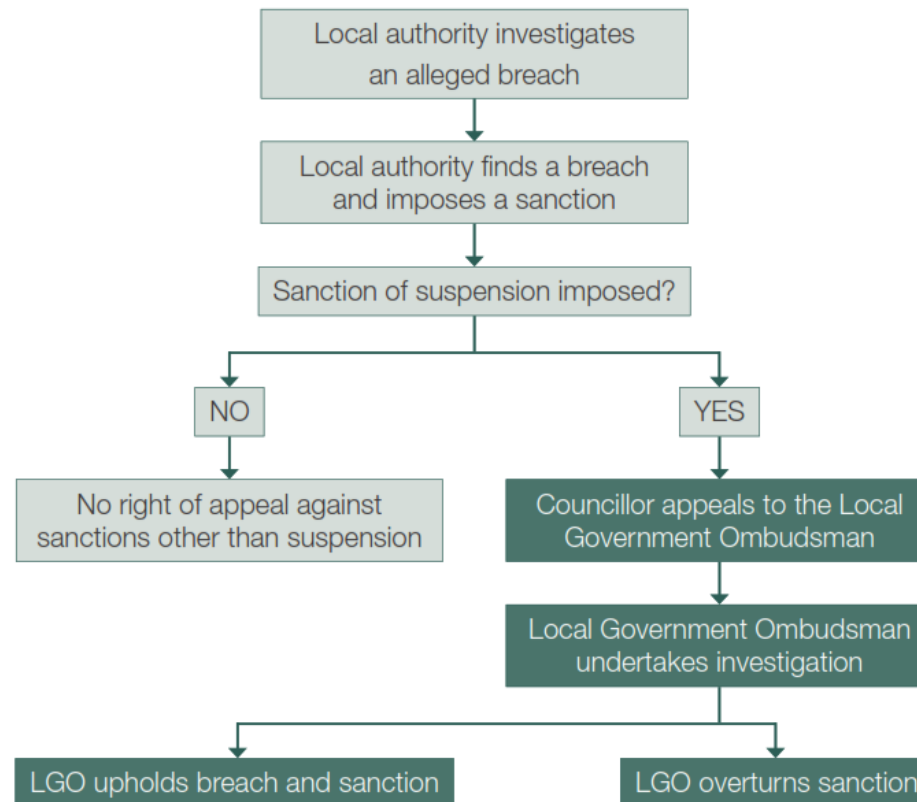
Recommendations / Best Practice

- BP6** LAs to adopt public interest test for filtering complaints
- BP7** LAs to have at least 2 IPs
- BP8** IP views on assessment
- R8** 2 year term of office for IPs, renewable once
- R9** IPs views to be recorded in decision notice and minutes
- R10** IP must agree breach and sanction on suspensions
- R11** LAs to provide legal indemnity to IPs
- R12** LAs may have voting independent and parish members on standards committees
- R13** Right of appeal to LGO if suspension **R14** LGO power to investigate and binding sanction
- R15** LAs required annually to publish complaints data and outcomes
- BP9** LAs to publish full hearing decisions
- BP10** LA websites to have clear complaints guidance and info

Investigations and safeguards

Recommendations / Best Practice

Proposed appeals process



Investigations and safeguards

Recommendations / Best Practice

- BP6 Assessment criteria
- **CAN / SHOULD** test

Northern Ireland Local Government Commissioner for Standards public interest test

1 'CAN' we investigate your complaint?

- Is the person you are complaining about a councillor?
- Did the conduct occur within the last six months?
- Is the conduct something that is covered by the code?

2 'SHOULD' we investigate your complaint?

- Is there evidence which supports the complaint?
- Is the conduct something which it is possible to investigate?
- Would an investigation be proportionate and in the public interest?⁵³

Sanctions

Findings

- Lack of serious sanctions:-
 - Prevents enforcement of lower level sanctions
 - Damages public credibility
 - Makes cost of investigations disproportionate to outcome
 - Removes means of LAs containing reputational damage
- Credibility of current regime undermined by lack of serious sanctions
- Party group discipline can fill the gap but lacks transparency, consistency and checks on impartiality of a standards system
- Suspension preserves the ballot box which is insufficient in itself
- Legal uncertainty of premises bans

Sanctions

Recommendations / Best Practice

R16 LA power to suspend without allowances for up to 6 months

R17 Government / legislation to put beyond doubt lawfulness of premises bans

R18 decriminalise DPs (see interests)



Town and parish councils

Findings

- Parish councils are highly dependent on the skills, experience and support of clerks – evidence of substantial difficulties where clerks are inexperienced, untrained, feel isolated and poor member behaviour
- **15% of PCs experience serious behaviour issues, 5% dysfunctional**
- PCs should report complaints, not the clerk
- Some MOs decline or lack resources to provide advice or accept parish complaints
- Variation in parish codes is a burden on the principal authority and confusing for dual hatted members
- PCs can ignore sanctions recommended by principal authority hearing
- PCs can take lawful protective steps short of sanctions

Town and parish councils

Recommendations / Best Practice

R19 Parish clerks to be qualified

BP11 standards complaints about member on clerk conduct to be made by chair or PC as a whole

BP12 MO role and resourcing to include advice, support and management of PC cases

R20 PCs to adopt parish version of principal authority code of conduct

R21 Parish councillor sanctions to be determined by principal authority only

Role of the Monitoring Officer

Findings

- MO is the lynchpin for upholding standards
- Can be conflicts of interest in MO being involved in investigation of senior members
- Confidence and support of chief executive is crucial to ensure MO has ability to upholds standards
- Some MOs have been forced to resign because of unwelcome advice or decisions
- Whistle-blowers could be deterred from reporting concerns to a private audit firm
- Whistle-blowers should be able to report concerns to councillors

Role of the Monitoring Officer

Recommendations / Best Practice

- BP13** LA should have investigation conflict procedures, including use of MOs from other LAs
- R22** statutory protection for MOs etc to extend to all disciplinary action, not just dismissal
- R23** LAs required to ensure whistleblowing policy and website specifies named contact for external auditor
- R24** councillors to be “prescribed persons” in Public Interest Disclosure Act 1998



Council governance, leadership and culture

Findings

- LAs now have complex governance – joint ventures, owned companies, LEPs
- Increased risk of conflicts of interest, lack of transparency
- 3 common threads in corporate failure:-
 - Unbalanced relation between members and officers
 - Lack of understanding of governance processes and scrutiny
 - Culture of fear or bullying
- Visible leadership essential in embedding ethical culture
- Early induction for councillors vital to set ethical tone

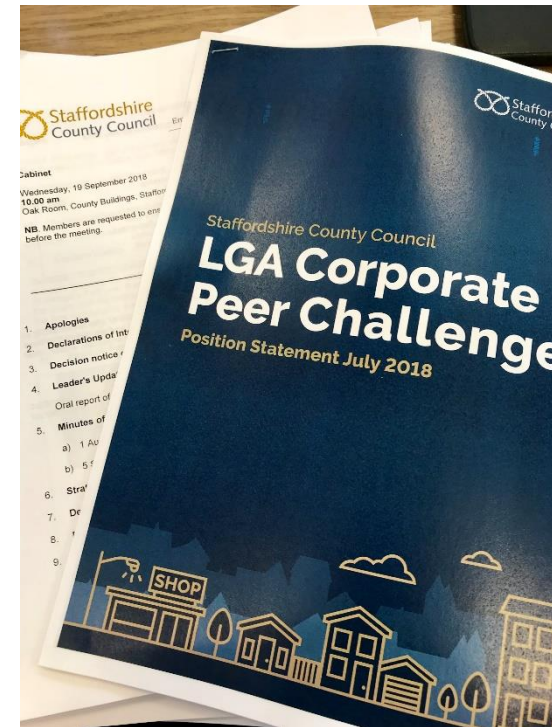
Council governance, leadership and culture

Recommendations / Best Practice

BP14 LA governance statement to include related bodies, those bodies to publish agendas, minutes and annual reports

BP15 senior officers to meet regularly with group leaders or whips re standards

R26 LGA peer reviews to include standards processes



Where now?

- Detailed and challenging report
- Some recommendations require primary legislation, some changes to regulations
- **Many best practice points can be implemented now by LAs**

	Recommendation	Action
BP1	LA codes to define and prohibit bullying and harassment, with examples	Revise code
BP2	Failure to co-operate with investigation to be breach of code	Revise code
BP3	Review code annually	Build into Standards Committee business cycle
BP4	Code readily accessible in prominent position on website	Home page link
BP5	Update registers of gifts & hospitality quarterly and make accessible	Home page link, send out update forms to members every 3 months
BP6	Public interest test for filtering complaints	Revise arrangements
BP7	At least 2 IPs	Joint recruitment campaign?
BP8	IP views on assessment	Revise arrangements
BP9	Publish full hearing decisions	Revise arrangements
BP10	Clear complaints guidance on website	Home page link

	Recommendations	Action
BP11	Standards complaints about member on clerk conduct to be made by chair or PC as a whole	Refer to ERNLCA
BP12	MO role and resourcing to include advice, support and management of PC cases	Include in budget round, involve s151 officer
BP13	LA should have investigation conflict procedures, including use of MOs from other LAs	Revise arrangements, agree other MO use protocol
BP14	LA governance statement to include related bodies, those bodies to publish agendas, minutes and annual reports	Ensure s151 officer aware, identify relevant related bodies and raise with them, brief Council reps, monitor compliance
BP15	Senior officers to meet regularly with group leaders or whips re standards	Raise with Ch Exec and s151 officer, Ch Exec to arrange (involve SC chair)

Where now?

- LLG, SLCC, ADSO, NALC group on code (all cover Wales and England)
- Association of Drainage Authorities might be interested in code (covers Wales and England)
- LGA ambivalent, but new leader being elected to replace Lord Porter
- Whitehall MCLG appears to want to reduce recommendations to best practice
- Even if interested, has Westminster Government the capacity or focus, post Brexit?
- **Failure to implement 6 months suspension will undermine whole system**



Jonathan Goolden

jonathan.goolden@wilkinchapman.co.uk

01472 265998

wilkin chapman llp

CYD-BWYLLGOR (AU) SAFONAU JOINT STANDARDS COMMITTEE(S)

Gareth Owens

Cyflwyniad/Introduction

- » **Trafodaeth am ddichonoldeb cyd-bwyllgor(au)**
- » **Edrych ar**
 - » Manteision posibl
 - » Anfanteision posibl
 - » Ffactorau llwyddiant
- » **Mapio ffyrdd posibl o weithio**
- » **Discussion piece on feasibility of joint committee(s)**
- » **Look at**
 - » Potential advantages
 - » Potential disadvantages
 - » Success factors
- » **Map out possible ways of working**

Cefndir/Background

- » **Adran 53 a 54 o Ddeddf Llywodraeth Leol 2000**
- » **Mae'n rhaid sefydlu Pwyllgor Safonau**
- » **Pwrpas**
- » **(a) hyrwyddo a chynnal safonau ymddygiad uchel gan aelodau ac aelodau cyfetholedig yr awdurdod, a**
- » **(b) cynorthwyo aelodau ac aelodau cyfetholedig yr awdurdod i gadw at god ymddygiad yr awdurdod**
- » **Deddfwriaeth 2016 wedi galluogi Cyd-bwyllgorau**
- » **Section 53 and 54 Local Government Act 2000**
- » **Must establish a Standards Committee**
- » **Purpose**
- » **(a) promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and**
- » **(b) assisting members and co-opted members of the authority to observe the authority's code of conduct**
- » **2016 legislation enabled Joint Committees**

Sefyllfa Bresennol/Current Position

- » **Cyfarfodydd dros y 12 mis diwethaf**
- » **Meetings over last 12 months**

CeCC	CoCBC	DCC	Fire/Tan	FCC	GCC	PCC	WCBC	YMC
5	3	5	2	10	4	3	4	7*

- » **0 o wrandawiadau ar draws y rhanbarth cyfan**
- » **Anawsterau recriwtio**
- » **Anghenion wedi lluosio o ran adnoddau**
- » **Sgiliau a phrofiad cyfredol (“oriau hedfan”)**
- » **0 hearings across whole region**
- » **Recruitment difficulties**
- » **Multiplication of resourcing needs**
- » **Currency of skills and experience (“flying hours”)**

*gan gynnwys Cyfarfodydd Panel Goddefebau

*including Dispensation Panel Meetings

Dichonoldeb/Feasibility

- » **Beth ym marn yr aelodau fyddai'r**
 - » Manteision posibl?
 - » Anfanteision posibl?
- » **Pe baem yn cael Cydbwyllgorau, sawl un ddylem ei gael?**
- » **Pa broblemau fyddai'n rhaid i ni eu datrys er mwyn i Gydbwyllgorau fod yn llwyddiannus e.e. lleoliad, iaith, cefnogaeth ysgrifenyddol a phroffesiynol??**
- » **What do members think would be the**
 - » Potential benefits?
 - » Potential disadvantages?
- » **If we were to have Joint Committees, how many should there be?**
- » **What issues would we need to resolved in order for Joint Committees to be successful e.g. location, language, secretarial and professional support?**

Ffactorau llwyddiant/Success factors

- » **Pa broblemau fyddai'n rhaid i ni eu datrys er mwyn i gydbwyllgorau fod yn llwyddiannus e.e. amledd, lleoliad, iaith, cefnogaeth ysgrifenyddol a phroffesiynol?**

- » **Sut fyddai'r cydbwyllgorau newydd yn gweithredu**
 - » Adlewyrchu gwahaniaethau rhwng gwahanol gynghorau
 - » Magu hyder

- » **What issues would we need to resolved in order for JC's to be successful e.g. frequency, location, language, secretarial & professional support?**

- » **How would the new JC's operate to**
 - » Reflect differences between different councils
 - » Instil confidence

Camau nesaf (?)/ Next steps (?)

- » **Camau nesaf posibl:**

- » Trafodaeth am ddichonoldeb gyda

- » Pwyllgorau Safonau

- » Cynghorwyr e.e. Arweinydd, Cadeirydd ac ati

- » Swyddogion e.e. Prif Weithredwr

- » **Cael Swyddogion Monitro i lunio cylch gorchwyl ar y cyd**

- » **Possible next steps include**

- » Discussion of feasibility with

- » Standards Committees

- » Councillors e.g. Leader, Chair etc

- » Officers e.g. Chief Executive

- » **Task Monitoring Officers with drawing up joint terms of reference**

**MINUTES OF THE NORTH WALES STANDARDS
COMMITTEES FORUM MEETING HELD IN THE DELYN
COMMITTEE ROOM, COUNCIL OFFICES, MOLD ON
MONDAY, 24 JUNE, 2019**

PRESENT

Ceredigion County Council – Hywel Jones (Chair)
Conwy County Borough Council – John Roberts (Chair) and Iain Moore (Vice Chair)
Denbighshire Council - Julia Hughes (Vice-chair) and Anne Mellor (Independent Member)
Flintshire Council – Gareth Owens (Monitoring Officer), Matthew Georgiou (Deputy Monitoring Officer), Robert Dewey (Chair), Julia Hughes (Vice Chair), Ken Molyneux (Independent Member), Phillipa Earlam (Independent Member)
Gwynedd Council - Einir Young (Chair) and Margaret E. Jones (Vice-chair)
Powys – Stephan Hays (Chair)
Wrexham County Borough Council - Neil Benson (Vice-chair) Sandra Hunt (Independent Member)
Isle of Anglesey County Council - Mike Wilson (Chair) and Islwyn Jones (Vice-chair)
Public Ombudsman for Wales – Nick Bennett

1. ELECTION OF CHAIR FOR THE MEETING

Robert Dewey, Chair Flintshire County Council Standards Committee, was elected chair of the meeting.

2. APOLOGIES

Apologies were received from:-

Ceredigion County Council - Caroline White (Vice-Chair)
Denbighshire Council - Ian Trigger (Chair)
Powys – Claire Jackson (Vice Chair) Debby Jones (Monitoring Officer)
Wrexham County Borough Council - Michael Pugh (Chair)

3. MINUTES OF THE MEETING HELD ON 29 JUNE, 2018

Submitted - the minutes of the North Wales Standards Committees Forum meeting held on 29 June 2018.

RESOLVED to accept the minutes of the meeting held on 29 June 2018 as an accurate record.

4. PRESENTATION BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES – NICK BENNETT

PSOW Code – the Ombudsman explained his new powers to

- i. Consider oral complaints
- ii. Complaints about Private Health Care
- iii. Own initiative

There have been an increasing number of service complaints especially in health, but there has been a similar increase in code complaints. There is a small office in North Wales which may grow over time. Of the large number of code complaints, the vast majority are found to be meritless. There are a relatively a small number of serious issues – 8 out of 288 referred for a hearing, which demonstrates the high standards in Wales.

Two out of three complaints were about Town and Community Councils - previously more. This was more balanced with an equal number coming from County Councils. The Ombudsman believes this shows that LRP is working but still more work is still needed in Town and Community Councils.

The 2 stage test is important, it allows more time for more serious cases and fewer vexatious complaints.

In North Wales, 32% of complaints but only 22% of the population. Only 17% were referred for hearings. There is work to do on lower level complaints.

Mr Bennett gave some examples of absurd complaints received by his office.

There has been a reduction in Member vs Member complaints at County level. This needs to be extended to Town and Community Council level.

What can the PSOW do to support local leadership? Ynys Mon, Monmouth and Swansea have done some good work to promote training and would have no problem coming to speak.

Powys raised questions about how to enforce promises made by Members as part of an Ethical process. They want more power to require compliance. Flintshire's Monitoring Officer said he had asked Welsh Government for more flexible sanction powers but this was refused.

Mike Wilson, Ynys Mon, said that the problem with Town and Community Councils is that County has no jurisdiction over them. They are trying to get the message across in order to help with local resolution. We have no investigative powers so have to accept what we're told. The PSOW agreed that soft power and influence was equally important. He said his help was not going to resolve every problem.

Einir Young, Gwynedd, said she would like the power to require an apology. Mr Bennett would like to explore this more with Welsh Government but said legislation takes a long time. Cheap solutions could be enshrined in legislation. The costs of appeals could be published – the PSOW thought this might reduce vexatious behaviour.

Conwy suggested attendance at training can be low - was there any scope for toughening obligation to attend training? Mr Bennett thinks that it is interest to attend. In Monmouthshire they have had presentations on –

1. The role of the MO
2. WLGA on future role of Town and Community Councils
3. How OVW can help
4. Role of Standards Committees
5. Introduction to WAO
6. Work of the PSOW

Flintshire asked whether there could be clarity or guidance on what amounts to bullying, which is the biggest single type of complaint. Gwynedd suggested seeking advice from HR.

Ceredigion give high profile to importance training. They had held a series of sessions where Independent Members attend. They had also had 4 area meetings to do the training. Not everyone attended but this is helping set a tone. The PSOW agreed culture is important. The Monitoring Officer at Gwynedd also does a lot of training but those who least need training are the ones who attend. There can be a flip side of over cautious behaviour and unnecessary declarations of interest.

Flintshire are developing an increasingly detailed list of expected behaviours.

Julia Hughes, Vice Chair of Flintshire and Denbighshire, described the process of visits to Town and Community Councils to better understand how meetings are working and pick up areas of good/bad practice. She explained that feedback was then given to all the clerks.

Hywel Jones, Ceredigion, asked about a report on reform of Town and Community Councils and whether there was any progress. Mr Bennett thinks that proposals for reform can give rise to a lack of clarity and accountability. However, there is potential to develop Town and Community Councils but there would need to be an improvement in behaviours.

Islwyn Jones, Ynys Mon, made the point that the Commissioner remains responsible for any service delivered (Mr Bennett agreed but stated this was not always the case). Ynys Mon have reviewed five or six of their biggest – looked at websites, minutes and Declarations of Interest with them and given specific feedback as well as a generic letter.

Flintshire asked whether the PSOW keeps records of low level complaints in order to see a pattern in the event of subsequent complaints. Mr Bennett suggested all complainants should keep a log.

Conwy raised a question regarding Social Media – Members were not attending training so were not finding out about the help that is available. Independent Members have been asked to leave some Councils as outsiders because they are a challenge to longstanding Councillors. Mr Bennett said it was important for that elections are important as a means of ensuring that there is accountability.

Powys raised a question about when matters are made public. Mr Bennett stated you cannot gag Members who choose to confirm the existence of a complaint. His office will confirm existence of an investigation. If nothing is confirmed, this leads to speculation. Rather than report matters publicly, Council could e mail Standards Committee members so that they are confidentially made aware of complaints.

5. LESSONS FROM THE COMMITTEE ON STANDARDS IN PUBLIC LIFE'S REVIEW OF THE CODE OF CONDUCT IN ENGLAND

<https://www.gov.uk/government/collections/local-government-ethical-standards>

Flintshire confirmed patchy practice on displaying the Code of Conduct – promotion of easy access is required.

Gwynedd asked to what extent there are matters which should be but have not been reported.

Ynys Mon asked whether standards might slip if there was more joint working.

6. NAME OF THE FORUM

Standards Forum for North and Mid Wales.

7. JOINT STANDARDS COMMITTEE

Ynys Mon meet informally to undertake tasks in between meetings.

Conwy have reduced their meetings so they can meet informally within the budget.

Ynys Mon has a sub-committee to consider dispensation requests. There is a 30 minute training session prior to each meeting – JH suggests sharing members across Committees.

Welsh translation would be essential.

There was a discussion considering dispensations and how to handle them with Infrequent meetings of the Standards Committee.

The potential disadvantage would be cost and travel.

Training – a lay member from each of the Counties plus an elected representative From each Council.

We might want to consider different models e.g. 1, 2 or 3 options.

Gwynedd thinks the same things are common to everyone and could be shared e.g. training based around geography.

Mike Wilson, Ynys Mon, saw potential advantages (e.g. cost savings). Issues such as how Independent Members are appointed could then be considered. Ynys Mon will have an almost completely new Committee in November.

A local connection/link might be important to build confidence.

It would be interesting to see the pros and cons and whether it would then improve standards.

Robert Dewey of Flintshire wants to keep the opportunity to grant dispensations quickly.

A SWOT analysis was requested with answers to be fed back to Flintshire
Either – Yes, No or Maybe

8. WELSH AUDIT OFFICE REPORTS HAVE RECENTLY BEEN PUBLISHED IN RELATION TO TWO COMMUNITY COUNCILS WITHIN THE ISLE OF ANGLESEY

Welsh Audit Office have reported publicly on contrived audit failings dating back to 2013/14 and 2014/15. Is this a recurring pattern (of late reports) or is it a one off? In Flintshire there has been a recent public interest report where there was a history of discussion with the Town Council and that the issue was 'taken to the next level' because of a lack of resolution.

9. ANY OTHER BUSINESS

10. DATE AND LOCATION OF NEXT MEETING

It was suggested that Powys host in November at a venue in Machynlleth.

DRAFT